



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, WA 98101

24716

October 18, 2001

Reply To
Attn Of: ORC-158

Via FAX and U.S. Mail

Raymond T. Swenson
Bechtel BWXT Idaho, LLC
P.O. Box 165
Idaho Falls, ID 83415-8632

Re: Request for Information under CERCLA Section 104(e)

Dear Mr. Swenson:

This letter follows-up the letter to you by Michael Gearheard, Director, Office of Environmental Cleanup dated October 4, 2001, regarding the Information Request issued to Bechtel BWXT Idaho, LLC (BBWI) by the U.S. Environmental Protection Agency (EPA) under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). As noted in Mr. Gearheard's letter, this letter responds to a list of questions regarding portions of EPA's Information Request that were included in a letter dated September 25, 2001, by Mark D. Olsen, Managing Counsel for BBWI.

Please refer to the enclosed attachment for responses to those questions. If you have any further questions, please feel free to call me at 206-553-0464.

Very truly yours,

Lisa A. Castañon
Assistant Regional Counsel

Enclosure

**EPA's Response to BBWI's Request for Clarification dated
September 25, 2001.**

Response to Question No. 1

The purpose of the separate Information Request to Bechtel BWXT Idaho, LLC (BBWI) is to request records from BBWI.

Response to Question No. 1(a)

The specific scope of information being requested of BBWI is reflected in the Information Request itself. To the extent that BBWI may have records duplicative of those being submitted by the U.S. Department of Energy (DOE) and BBWI wishes to coordinate its response with DOE, BBWI need not submit any duplicative records. BBWI remains responsible, however, for such information being submitted to EPA. If BBWI is relying on DOE to submit duplicative documents on BBWI's behalf, BBWI should inform EPA as to each question. BBWI is responsible for submitting all responsive documents that are not duplicative of DOE's documents.

Response to Question No. 1(b)

Please be aware that under Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), "any person" who has or may have relevant information may be required to furnish such information. Status as a potentially responsible person is irrelevant. To the extent that BBWI has duplicative records that DOE is submitting to EPA in response to DOE's information request, BBWI need not submit such records as explained in the response to Question No. 1(a).

Response to Question No. 1(c)

Please be aware that EPA's request for information is made pursuant to CERCLA Section 104(e) and not under the Freedom of Information Act (FOIA). CERCLA Section 104(e) provides for the imposition of penalties and EPA typically informs a recipient of an information request of the potential of incurring such penalties.

Response to Question No. 2(a)

EPA is investigating the source, extent and nature of a release or threatened release of hazardous substances, pollutants or contaminants or hazardous waste on or about the INEEL Site, which

includes the review and oversight of such investigations performed by other parties.

Response to Question No. 2(b)

EPA's Information Request refers to the release and threatened release of hazardous substances at the INEEL Site which comprises portions of three counties. EPA is not referring to any release within the city limits of Idaho Falls, Idaho.

Response to Question No. 3 (a)

Although EPA has authority to perform a response action at INEEL under both CERCLA and Executive Order 12580, the issue raised by BBWI as to whether EPA is considering having some entity other than DOE perform response actions at the INEEL Site is irrelevant to issue of BBWI's obligation to respond to the Information Request under CERCLA Section 104(e).

Response to Question No. 3(b)

The Questions set forth in the Information Request fall within the scope of CERCLA Section 104 (e)(2)(C). Please refer to the statutory language for further clarification.

Response to Question No. 4(a)

Based upon EPA's interpretation of Executive Order 12580, EPA has authority to issue a request for information under CERCLA Section 104(e)(2) at INEEL and has authority to enforce compliance with an information request under CERCLA Section 104(e)(6)

Response to Question No. 5(a)

See Response to Question No. 4(a).

Response to Question No. 6

BBWI may respond to the Questions set forth in the Information Request within the time frame of October 1, 1999 through February 26, 2001.

Response to Question No. 7

BBWI may respond to each of the seven questions set forth in the Information Request as if they were numbered sequentially.

Response to Question No. 8(a)

As stated previously, BBWI is responding to a request for information under CERCLA Section 104(e). BBWI should not confuse its response to a CERCLA 104 (e) request for information with the exemptions to disclosure of information to the public afforded to the federal government under FOIA.

If BBWI asserts an attorney-client communication privilege, attorney work product privilege or any other privilege, BBWI must provide EPA with the following information: 1. The title of the document, record or information; 2. The date of the document, record or information; 3. the name and title of the author of the document, record or information; 4. The name and title of each addressee and recipient; 5. A description of the contents of the document, record or information; and 6. the privilege asserted by BBWI.

Response to Question No. 9

BBWI is not required under CERCLA to certify the accuracy of its response, however, if BBWI chooses not to complete the certification, EPA may consider this fact when reviewing any submitted information by BBWI.

Response to Question No. 10

BBWI should respond to the questions set forth in the Information Request by providing records either it generated or it received from DOE, as indicated in the information request. Such questions encompass records that are "internal to BBWI" as well as "made to DOE-ID." For purposes of responding to the Information Request, BBWI should consider DOE's contractors, other than itself, to be included with the meaning of "U.S. Department of Energy" or "Energy."

Response to Question No. 11

Documents responsive to Question 2 (referred to as A.2 in your question) should be provided to EPA. Such documents may also be responsive to one or more other questions. Documents that are responsive to more than one question need only be provided once.

Response to Question No. 12

As requested, we will refer to Bechtel BWXT Idaho, LLC by the abbreviation "BBWI."

EXTERNAL bcc DISTRIBUTION:

ID DISTRIBUTION:

K. Hain, MS 1222 (y, g)
J. Lyle, MS 1222 (w)
L. Green, MS 1222 (w)
K. O'Neill, MS 1222 (w)
W. Bergholz, MS 1222 (w)
M. Frei, MS 1222 (w)
R. Corman, MS 1209 (w)
R. Swenson, MS 1209 (w)

CONCURRENCE:

EM _____
OCC _____
OM _____

RECORD NOTES:

1. This letter was written in response to EPA's request of August 22, 2001, to incorporate the responses of both BBWI, the Management and Operations contractor for the INEEL, and the Department of Energy (DOE).
2. This letter was written by K. Hain (EM/ER), with concurrence by R. Corman and R. Swenson (OCC), L. Green and J. Lyle (EM) and W. Bergholz (M).
3. This letter/memo closes OATS number N/A
4. The attached correspondence has no relation to the Naval Nuclear Propulsion Program.